

NADII.018A



44
PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant : Katagiri) Group Art Unit:
App. No. : 09/770,509) Unknown
Filed : January 25, 2001)
For : OOMYCETE FTSZ-MT AS A)
TARGET FOR OOMYCETE-)
SPECIFIC FUNGICIDES)

RECEIVED

AUG 06 2001

OFFICE OF PETITIONS
DEPUTY A/C PATENTS

PETITION UNDER 37 C.F.R. § 1.53(e) TO ESTABLISH PRIOR RECEIPT IN THE P.T.O. OF
ITEM(S) CONSIDERED AS OMITTED BY THE P.T.O.

NONPROVISIONAL APPLICATION

Assistant Commissioner for Patents
Crystal Park One, Suite 250
Washington, D.C. 20231

Attention: Box DAC

Dear Sir:

Applicant petitions for the P.T.O. to accept the enclosed seven (7) sheets of drawings in response to the NOTICE OF INCOMPLETE NONPROVISIONAL APPLICATION FILED UNDER 37 C.F.R. § 1.53(b), mailed for the above-identified application on May 9, 2001. A copy of the notice is enclosed.

Applicant asserts that the figures attached herewith (Figures 1-3 on a total of seven sheets) and indicated as omitted were, in fact, deposited with the P.T.O. with the original papers filed on January 25, 2001. In accordance with the requirements of the Notice of June 5, 1996, 61 Fed. Reg. 30,041-30,046, (see MPEP, § 601.01(d), 7th Edition) applicant hereby: (1) petitions under 37 C.F.R. § 1.53(e) for a review of the determination that the items in issue were omitted; (2) submits additional copies of the figures indicated as missing, (3) submits a petition fee under

Appl. No. : 09/736,670
Filed : December 13, 2000

37 C.F.R. § 1.17(i), and (4) submits the attached evidence that missing Figures 1-3 were deposited with the original filing documents.

As indicated by the evidence below, Figures 1-3 on seven (7) sheets were originally filed by Express Mail on January 25, 2001. Attached herewith are:

- 1) a copy of the certificate of mailing by Express Mail indicating 7 sheets of drawings (Figs. 1-3) were filed with the application; and
- 2) a copy of the transmittal that accompanied the application indicating that 7 sheets of drawings (Figs. 1, 2, and 3) were filed with the application.

REMARKS

Applicant also encloses herewith a copy of the postcard which erroneously lists 3 sheets ("pgs.") of drawings when 3 figures on a total of 7 sheets was intended. Notwithstanding this clerical error, the postcard also stands as evidence that drawings were submitted with the original papers filed on January 25, 2001 as the application assigned Serial No. 09/770,509.

Please charge the \$130.00 fee due under 37 C.F.R. §1.17(i) to Deposit Account No. 11-1410. Charge any additional fees required by this paper or credit any overpayment in the manner authorized above.

It is respectfully requested that, upon grant of the petition under 37 § 1.53 (e), the petition fee be refunded by a credit to the charge authorized above.

Respectfully submitted,

KNOBBE, MARTENS, OLSON & BEAR, LLP

Dated: 7 June 2001

By: 

Dale C. Hunt
Registration No. 41,857
Attorney of Record
620 Newport Center Drive
Sixteenth Floor
Newport Beach, CA 92660
(949) 760-0404